

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

MARTIN CORONA VALENZUELA,

Defendant.

8:18CR20

MEMORANDUM AND ORDER

This matter is before the Court on the Defendant's Motion to Dismiss Criminal Case, ECF No. 23, and the Magistrate Judge's Findings and Recommendation, ECF No. 38, in which Magistrate Judge Susan Bazis recommends the Defendant's Motion be denied.

The Findings and Recommendation were filed on November 29, 2018. Pursuant to NECrimR 59.2, any objections to the Findings and Recommendation were due on or before December 13, 2018. No objections have been filed. It is noted that a Superseding Indictment was filed on December 11, 2018, ECF No. 39, alleging that the conspiracy giving rise to the charges continued through on or about October 3, 2018, rather than on or about January 9, 2018, as alleged in the original Indictment. Nonetheless, the Court infers that the Defendant continues to assert the same arguments in support of his Motion to Dismiss, presented in his Brief, ECF No. 24, and evidentiary submissions, ECF No. 28, as to the Superseding Indictment.

Having reviewed the record in this case, including the Transcript of Proceedings, ECF No. 37, the Court adopts the facts stated in the Magistrate Judge's Findings and Recommendation and concludes that the Defendant has not met his burden of

demonstrating actual and substantial prejudice to the presentation of his defense resulting from any delay in the filing of the Indictment. See *United States v. Jackson*, 446 F.3d 847, 849 (8th Cir. 2006).

Accordingly,

IT IS ORDERED:

1. The Magistrate Judge's Findings and Recommendation, ECF No. 38, are adopted in their entirety; and
2. The Defendant's Motion to Dismiss Criminal Case, ECF No. 23, is denied.

Dated this 27th day of December, 2018.

BY THE COURT:

s/Laurie Smith Camp
Senior United States District Judge